

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

IN RE:

CASE NO.: 8:18-bk-00341-CPM
CHAPTER: 7

Arminda I. Colon,

Debtor.

**CREDITOR'S MOTION FOR
RELIEF FROM AUTOMATIC STAY**

Subject Property 2344 E. Orangehill Avenue, Palm Harbor, Florida 34683

NOTICE OF OPPORTUNITY TO OBJECT AND REQUEST FOR HEARING

Pursuant to Local Rule 2002-4, the Court will consider the relief requested in this paper without further notice or hearing unless a party in interest files a response within 21 days from the date set forth on the attached proof of service, plus an additional three days for service if any party was served by U.S. Mail.

If you object to the relief requested in this paper, you must file a response with the Clerk of the Court at 801 North Florida Avenue Suite 555, Tampa, FL 33602 and serve a copy on the Movant's attorney, **Kenia Molina, Esq., 1 East Broward Boulevard, Suite 1430, Ft. Lauderdale, FL 33301**, and any other appropriate persons within the time allowed. If you file and serve a response within the time permitted, the Court will either schedule and notify you of a hearing, or consider the response and grant or deny the relief requested without a hearing.

If you do not file a response within the time permitted, the Court will consider that you do not oppose the relief requested in the paper, will proceed to consider the paper without further notice or hearing, and may grant the relief requested.

Creditor, Deutsche Bank National Trust Company, as Trustee, on behalf of the holders of the J.P. Morgan Mortgage Acquisition Trust 2007-CH2 Asset Backed Pass-Through Certificates, Series 2007-CH2, ("Creditor"), by and through undersigned counsel and pursuant to 11 U.S.C. § 362(d), Fed. Rule Bankr. P. 4001 moves this court for relief from the automatic stay to proceed in rem, and states:

1. This Court has jurisdiction over the subject matter herein.

2. On or about August 28, 2006, Arminda Colon executed and delivered a promissory note (the "Note"), and a Mortgage securing payment of the Note (the "Mortgage"). Creditor is entitled to enforce the Note, a true and correct copy of which is attached hereto as **Exhibit "A"**.

3. The Mortgage was recorded on September 6, 2006 in the Official Records Book 15347 at Page 453 of the Public Records of Pinellas County, Florida, and encumbered the property described in the Mortgage. A true and correct copy of the Mortgage is attached hereto as **Exhibit "B"**. The Creditor is a secured creditor through the Note and Mortgage executed on August 28, 2006 in the amount of \$156,800.00.

4. The Mortgage was subsequently assigned to Chase Home Finance, LLC, by virtue of an Assignment of Mortgage (the "Assignment of Mortgage") recorded on July 2, 2009 in the Official Records Book 16630 at Page 449 of the Public Records of Pinellas County, Florida. A true and correct copy of the Assignment of Mortgage is attached hereto as **Exhibit "C"**.

5. The Mortgage was subsequently assigned to Deutsche Bank National Trust Company, as Trustee, on behalf of the holders of the J.P. Morgan Mortgage Acquisition Trust 2007-CH2 Asset Backed Pass-Through Certificates, Series 2007-CH2, by virtue of an Assignment of Mortgage (the "Assignment of Mortgage") recorded on July 2, 2009 in the Official Records Book 16630 at Page 450 of the Public Records of Pinellas County, Florida. A true and correct copy of the Assignment of Mortgage is attached hereto as **Exhibit "D"**.

6. Select Portfolio Servicing, Inc. is the servicer of the loan described in the Note and Mortgage and, as such, has the authority to initiate the instant action and any foreclosure on the Creditor's behalf pursuant to Power of Attorney, attached hereto as **Exhibit "E"**.

7. The creditor has the right to foreclose on the subject property.

8. Arminda Colon ("Debtor") is in default under the Note and Mortgage and is not adequately protecting the Creditor.

9. The Debtor filed this voluntary Chapter 13 proceeding on January 17, 2018. The Chapter 13 case was converted to a Chapter 7 case on August 31, 2018.

10. The Creditor holds a security interest in the subject property located at 2344 E. Orangehill Avenue, Palm Harbor, Florida 34683 ("Property"), more fully described in Mortgage attached as Exhibit "B". The legal description for the Property is as follows:

Lot 452, BEACON GROVES UNIT VI, according to the map or Plat thereof, recorded in Plat Book 73, Page(s) 72 and 73, of the Public Records of Pinellas County, Florida.

11. Based on the Debtor's Statement of Intention, the Debtor intends to surrender the property. See Exhibit "F". Pursuant to the valuation obtained from Pinellas County Property Appraiser attached as Exhibit "G" the property is valued at \$132,311.00.

12. The amount due to the Creditor as of November 8, 2018, is \$258,016.43 as evidenced by Exhibit "H" attached.

13. The Creditor maintains that cause exists pursuant to 11 U.S.C. §362(d)(1) for the automatic stay to be lifted. The Creditor's security interest in the subject property is being significantly jeopardized by the Debtor's failure to make regular payments under the Note and Mortgage while Creditor is prohibited from pursuing lawful remedies to protect such interest. The default is based on the contractual default. The contractual monthly mortgage payment is \$1,092.40, which is comprised of principal and interest, as well as escrow, if applicable. The Debtor is indebted to the Creditor in the total amount of \$258,016.43. See Exhibit "H".

14. Creditor further seeks relief to, at its option, offer, provide, and enter into any potential loan assistance agreement. Creditor requests that it may contact the Debtor via telephone or written correspondence to offer such an agreement.

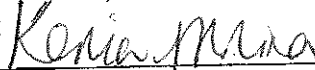
15. Select Portfolio Servicing, Inc. is servicing the loan on behalf of the Creditor. Any payments made to the Creditor must be sent to:

Select Portfolio Servicing, Inc.
Attn: Remittance Processing
P.O. Box 65450, Salt Lake City, UT 84165-0450

WHEREFORE, Creditor Deutsche Bank National Trust Company, as Trustee, on behalf of the holders of the J.P. Morgan Mortgage Acquisition Trust 2007-CH2 Asset Backed Pass-Through Certificates, Series 2007-CH2, prays that this Court issue an order terminating or modifying the stay, and that the fourteen (14) day stay of the order pursuant to Fed. Rule Bankr. P. 4001 (a)(3) be waived or, in the alternative, that the Debtor be directed forthwith to make regular cash payments that would adequately protect Creditor's interest. Additionally, Creditor requests this court award any other relief this Court deems just and proper.

Dated: December 20, 2018

Respectfully submitted:



Kenia Molina, Esq.
FBN: 85156
Frenkel Lambert Weiss, Weisman & Gordon, LLP
Attorneys for Secured Creditor
One East Broward Boulevard, Suite 1430
Fort Lauderdale, FL 33301
Phone: (954) 522-3233
Fax: (954) 200-7770
Kmolina@flwlaw.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of December, 2018 I served a copy of the foregoing either electronically and/or via first class U.S. mail upon:

Attorney for Debtor

Timothy B. Perenich, Esq.
Perenich Law, PL
25749 U S Highway 19 North
Suite 200
Clearwater, FL 33763

Debtor

Arminda I. Colon
4043 Scarlet Maple Drive
Holiday, FL 34691


Trustee

Carolyn R. Chaney
PO Box 530248
St. Petersburg, FL 33747

U.S. Trustee

United States Trustee - TPA7/13, 7
Timberlake Annex, Suite 1200
501 East Polk Street
Tampa, FL 33602

Frenkel Lambert Weiss Weisman & Gordon, LLP
One East Broward Blvd, Suite 1430
Ft. Lauderdale, FL 33301
Tel: (954) 522-3233 Ext. 1639 | Fax: (954) 200-7770
Kmolina@flwlaw.com



Kenia Molina, Esq.
Bar No. 85156

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

IN RE:

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CHAPTER: 7

Arminda I. Colon,

Debtor,

DECLARATION IN SUPPORT OF
MOTION FOR RELIEF FROM AUTOMATIC STAY

I, Craig Fisher, declare under penalty of perjury as follows:

1. I am a Document Control officer of Select Portfolio Servicing, Inc. ("SPS") and am authorized to sign this declaration on behalf of SPS as servicing agent for Deutsche Bank National Trust Company, as Trustee, on behalf of the holders of the J.P. Morgan Mortgage Acquisition Trust 2007-CH2 Asset Backed Pass-Through Certificates, Series 2007-CH2, which is the entity that has the right to foreclose by virtue of being the owner and holder of the note. This declaration is provided in support of the Motion for Relief from Stay (the "Motion").

2. As a mortgage servicer, SPS collects payments from borrowers and maintains up-to-date records concerning the loans it services in its electronic record-keeping system. SPS is a business and maintains the loan records in the course of its regularly conducted business activities and the records are made at or near the time of the event by or from information transmitted by a person with knowledge of the event. It is SPS's regular practice to keep such records in the ordinary course of a regularly conducted business activity.

3. I have access to SPS's business records, including the business records for and relating to the loan that is the subject of this action. I sign this declaration based upon my review of those records relating to the loan and from my own personal knowledge of how SPS's business records are kept and maintained.

4. Arminda Colon ("Debtor") has executed and delivered and is otherwise obligated with respect to that certain promissory note referenced in the Motion (the "Note"). Pursuant to that certain Mortgage referenced in the Motion (the "Mortgage"), all obligations of the Debtor under and with respect to the Note and the Mortgage are secured by the property referenced in the Motion.

5. As of November 8, 2018, the outstanding unpaid principal balance under the Note \$258,016.43.

6. The following chart sets forth the number and amount of payments due pursuant to the terms of the Note that have been missed by the Debtor:

Number of Missed Payments	From	To	Monthly Payment Amount	Total Amount Missed
69	05/01/2012	01/01/2018	\$1,092.40	\$75,375.60
10	02/01/2018	11/01/2018	\$1,409.58	\$14,095.80

Total: \$89,471.40

Pursuant to 28 U.S.C. § 1746, I hereby declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 17th day of December, 2018.

Craig Fisher 12/17/2018
Craig Fisher

Name
Document Control Officer

Title
Select Portfolio Servicing, Inc.